(140)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Division Bench

Coram : **Hon'ble Shri Jagdish Bhalla, Acting C.J. &**
Hon'ble Shri Dilip Raosaheb Deshmukh, J.

Writ Appeal No.142 of 2007

Appellant Petitioner		Alok Jain, S/o Late Shri L.C. Jain, Aged about 59 years, Proprietor, M/s Bastar Medical Stores, Jagdalpur, Distt. Bastar (CG)
	versus	
Respondents	1.	Drug Inspector, Jagdalpur, Distt. Bastar (CG)
	2.	State of Chhattisgarh, Through Dy. Secretary, Public and Health and Family Welfare Department, Raipur (CG)

Writ Appeal under Section 2(1) of the Chhattisgarh High Court Appeal to Division Bench Act, 2006 read with Rule 157 (10) (E) of the High Court of Chhattisgarh Rules, 2005

Present : Shri P.K. Bhaduri, counsel for the appellant/petitioner.
Shri N.K. Agrawal, Deputy Advocate General for the State/respondents.

ORAL ORDER

(Passed on 9th of July, 2007)

The following oral order of the Court was passed by **Jagdish Bhalla, Acting Chief Justice** :

We called upon learned counsel for the appellant to address this Court on the question of maintainability of the writ appeal in the light of Section 2 of the Chhattisgarh High Court (Appeal to Division Bench) Act, 2006 (henceforth 'the Act').

Learned counsel for the appellant concedes that Section 2 of the Act clearly provides that no appeal shall lie against an interlocutory order or against an order passed in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

Section 2 of the Act reads as under :

2. "Appeal to the Division Bench of the High Court from a Judgment or order of one judge of the High Court made in exercise of original jurisdiction. – (1) An appeal shall lie from a judgment or order passed by one Judge of the High Court in exercise of original Jurisdiction under Article 226 of the Constitution of India, to a Division Bench comprising of two Judges of the same High Court :

Provided that no such appeal shall lie against an interlocutory order or against an order passed in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

(2) An appeal under sub-section (1) shall be filed within 45 days from the date of order passed by a single Judge :

Provided that any appeal may be admitted after the prescribed period of 45 days, if the petitioner satisfies the Division Bench that he had sufficient cause for not preferring the appeal within such period.

Explanation.- The fact that the petitioner was misled by any order, practice or judgment of the High Court in ascertaining or computing the prescribed period may by sufficient cause within the meaning of this sub-section.

(3) An appeal under sub-section (1) shall be filed, heard and decided in accordance with the procedure as may be prescribed by the High Court."

There is a specific bar in filing a writ appeal against the order passed by Hon'ble Single Judge under Article 227 of the Constitution of India.

In the light of above, no interference is warranted by this Court. The appeal is dismissed as not maintainable.

Sd/-
Acting Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge

Gopal